REMARKS

In the final Office Action, the Examiner rejected claims 6, 7, 15-19, 23-27, and 29-37 under 35 U.S.C. § 103(a) as unpatentable over Fredette et al. (U.S. Patent No. 6,697,361) in view of Basso et al. (U.S. Patent No. 6,690,678); and rejected claim 28 under 35 U.S.C. § 103(a) as unpatentable over Fredette et al. in view of Basso et al. and Tappan (U.S. Patent No. 6,295,296).

By this Amendment, Applicant proposes canceling claims 16, 25, 30-34, 36, and 37 without prejudice or disclaimer, amending claims 6, 7, 15, 17, 18, 24, 29, and 35 to improve form, and adding new claim 38. Applicant respectfully traverses the Examiner's rejections under 35 U.S.C. § 103 with regard to the claims presented herein. Claims 6, 7, 15, 17-19, 23, 24, 26-29, 35, and 38 are pending.

At pages 2-8 of the Office Action, the Examiner rejected pending claims 6, 7, 15, 17-19, 23, 24, 26, 27, 29, and 35 under 35 U.S.C. § 103(a) as allegedly unpatentable over Fredette et al. in view of Basso et al. Applicant respectfully traverses the rejection with regard to the pending claims.

Amended independent claim 15, for example, is directed to a node which consolidates communication connections in a network. The node comprises a processor to determine whether a tunneling communication connection is present both in a first route of an existing communication connection and in a second route of a second communication connection, wherein said first and second routes have different destination nodes in said network, temporarily modify a parameter of said tunneling communication connection to accommodate merging said second communication

connection in said tunneling communication connection, send a modification request to another node associated with the tunneling communication connection, receive a modification response from the other node that indicates whether modification of the parameter is possible at the other node, fixedly modify the parameter, at the node, when modification of the parameter is possible at the other node, and merge said existing communication connection and said second communication connection on said tunneling communication connection when modification of the parameter is possible at the other node.

Neither Fredette et al. nor Basso et al., whether taken alone or in any reasonable combination, discloses or suggests the combination of features recited in amended claim 15. For example, neither Fredette et al. nor Basso et al. discloses or suggests a processor configured to temporarily modify a parameter of the tunneling communication connection to accommodate merging the second communication connection in the tunneling communication connection and fixedly modify the parameter, at the node, when modification of the parameter is possible at another node.

When addressing a feature in now canceled claim 32, the Examiner admitted that Fredette et al. does not disclose temporarily setting the modification of the parameter when modification is possible at the node (final Office Action, page 4). The Examiner alleged that Basso et al. discloses this feature and cited column 4, lines 24-28, of Basso et al. for support (final Office Action, page 5). Applicant respectfully disagrees.

At column 4, lines 24-31, Basso et al. discloses:

> The object of the present invention is, in a packet or cell switching network, to dynamically adjust the bandwidth of a Continuous Bit Rate (CBR) Virtual Path Connection (VPC) according to the current network resource reservation and more particularly, in a backbone ATM network where voice calls have priority, to dynamically allocate the remaining bandwidth to data traffic by means of a bandwidth adjustable CBR VPC.

In this section, Basso et al. discloses dynamically adjusting the bandwidth of continuous bit rate virtual path connection in a backbone ATM network. Nowhere in this section, or elsewhere, does Basso et al. disclose or suggest a processor configured to temporarily modify a parameter of the tunneling communication connection to accommodate merging the second communication connection in the tunneling communication connection, as required by claim 15.

Because Fredette et al. and Basso et al. do not disclose or suggest a processor configured to temporarily modify a parameter of the tunneling communication connection to accommodate merging the second communication connection in the tunneling communication connection, Fredette et al. and Basso et al. cannot disclose or suggest a processor configured to fixedly modify the parameter, at the node, when modification of the parameter is possible at another node to which a modification request is sent and from which a modification response is received, as further recited in claim 15.

For at least these reasons, Applicant submits that claim 15 is patentable over Fredette et al. and Basso et al., whether taken alone or in any reasonable combination. Claims 17-19 and 23 depend from claim 15 and are, therefore, patentable over Fredette et al. and Basso et al. for at least the reasons given with regard to claim 15.

Independent claims 24 and 35 recite features similar to, but possibly different in scope from, features recited in claim 15. Claims 24 and 35 are, therefore, patentable over Fredette et al. and Basso et al., whether taken alone or in any reasonable combination, for at least reasons similar to reasons given with regard to claim 15. Claims 6, 7, 26, 27, and 29 depend from claim 24 and are, therefore, patentable over Fredette et al. and Basso et al. for at least the reasons given with regard to claim 24.

At page 8 of the final Office Action, the Examiner rejected claim 28 under 35 U.S.C. § 103(a) as allegedly unpatentable over Fredette et al. in view of Basso et al. and Tappan. Applicant respectfully traverses the rejection.

Claim 28 depends from claim 24. Without acquiescing in the Examiner's rejection with regard to claim 28, Applicant submits that the disclosure of Tappan does not cure the deficiencies in the disclosures of Fredette et al. and Basso et al. identified above with regard to claim 24. Therefore, claim 28 is patentable over Fredette et al., Basso et al., and Tappan, whether taken alone or in any reasonable combination, for at least the reasons given with regard to claim 24.

New independent claim 38 is directed to a node that consolidates communication connections in a network that includes a plurality of nodes. The node comprises a processor to determine whether a common communication connection is present both in a first route of a first communication connection and in a second route of a second communication connection, the first and second routes being associated with different destination nodes in the network, determine if modification of a parameter of the common communication connection to accommodate merging the first and second

communication connections in the common communication connection is possible, temporarily set the modification of the parameter when modification of the parameter is determined to be possible, send a parameter modification request to another node associated with the common communication connection, receive a parameter modification response from the other node, the parameter modification response indicating whether modification of the parameter at the other node is possible, and when modification of the parameter is possible at the other node, fixedly modify the parameter and merge the first and second communication connections in the common communication connection.

Fredette et al., Basso et al., and Tappan, whether taken alone or in any reasonable combination, do not disclose or suggest the combination of features recited in claim 38 for at least reasons similar to reasons given with regard to claim 15.

For at least these reasons, Applicant submits that new claim 38 is patentable over Fredette et al., Basso et al., and Tappan, whether taken alone or in any reasonable combination.

In view of the foregoing amendments and remarks, Applicant respectfully requests the Examiner's reconsideration of this application, and the timely allowance of the pending claims.

Applicant respectfully requests that this Amendment under 37 C.F.R. § 1.116 be entered by the Examiner, placing claims 6, 7, 15, 17-19, 23, 24, 26-29, 35, and 38 in condition for immediate allowance. Applicant submits that the proposed amendments do not raise new issues or necessitate the undertaking of any additional search of the art by

the Examiner, since all of the elements and their relationships claimed were either earlier claimed or implied in the claims as examined. Therefore, this Amendment should allow for immediate action by the Examiner. Further, Applicant submits that the entry of this Amendment would place the application in better form for appeal, should the Examiner dispute the patentability of the pending claims.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 50-1070 and please credit any excess fees to such deposit account.

Respectfully submitted,

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Date: April 20, 2006

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